



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

AUG 30 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

James Flanagan  
Manager, Foundry Operations  
Babcock & Wilcox Co.  
91 Stirling Avenue  
P.O. Box 271  
Barberton, Ohio 44203-0271

Dear James Flanagan:

This is to advise you that the U.S. Environmental Protection Agency has determined that the Babcock & Wilcox Co.'s (Babcock & Wilcox) facility at 91 Stirling Avenue, Barberton, Ohio (facility) is in violation of the Clean Air Act (CAA or the Act) and associated state or local pollution control requirements. A list of the requirements violated is provided below. We are today issuing to you a Notice of Violation and Finding of Violation (NOV/FOV) for these violations.

The CAA requires the development of Primary and Secondary National Ambient Air Quality Standards to protect public health welfare. To attain and maintain these standards, each state is required to develop an implementation plan. Ohio's State Implementation (Ohio SIP) requires you to take reasonably available control measures to prevent dust from becoming airborne. This requirement is incorporated into Babcock & Wilcox's Permit-to-Install-and-Operate (PTIO). The purpose of the visible particulate limit is to help protect the public from unhealthy exposures to particulate. Particulate emissions, in particular fine particulate, contribute to respiratory problems, lung damage and premature deaths.

The Act also requires the development of standards for emissions of hazardous air pollutants (HAPs), called National Emission Standards for Hazardous Air Pollutants (NESHAPs). The purpose of the NESHAPs is to reduce HAPs, including certain metals, which pose a threat to human health. The NESHAP for Iron and Steel Foundries Area Sources sets forth requirements to minimize emission of HAPs and requires you to submit notification as to whether your facility is a small or large foundry.

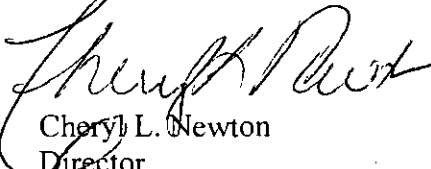
EPA finds that the Babcock & Wilcox facility has violated the above listed Ohio SIP requirements as incorporated into Babcock & Wilcox's PTIO. Since Babcock & Wilcox violated its PTIO you have also violated Title I of the CAA and its implementing regulations, which require compliance with the Ohio SIP as well as the terms and conditions of installation and operating permits. EPA also finds that Babcock & Wilcox has violated the NESHAP for Iron and Steel Foundries Area Sources.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action and bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Michele Jencius. You may call her at 312.353.1377 if you wish to request a conference. If she is not available, you may also call Kevin Vuilleumier at 312.886.6188 to request a conference. EPA hopes that this NOV/FOV will encourage Babcock & Wilcox's compliance with the requirements of the CAA.

Sincerely,



Cheryl L. Newton  
Director  
Air and Radiation Division

cc: Bob Hasenyager, Interim Administrator, Akron Regional Air Quality Management District  
Ed Fasko, Manager, Ohio EPA, NEDO

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Babcock & Wilcox Co.  
Barberton, Ohio**

Proceedings Pursuant to  
the Clean Air Act  
42 U.S.C. § 7401 et seq

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)  
) **NOTICE OF VIOLATION and  
FINDING OF VIOLATION**  
)

) **EPA-5-11-OH-14**  
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**NOTICE AND FINDING OF VIOLATION**

Babcock & Wilcox Co. (you or Babcock & Wilcox) owns and operates two electric arc furnaces (EAFs) and one mold-making line at 91 Stirling Avenue, Barberton, Ohio (facility). The EAFs are identified as P904 and P905. The mold-making line is identified as P911.

The U.S. Environmental Protection Agency (EPA or we) is sending this Notice of Violation and Finding of Violation (NOV/FOV or Notice) to notify you that we have found that opacity emissions associated with P905, at your facility, did not comply with the requirements specified in your Permit-to-Install-and-Operate (PTIO) and the Ohio State Implementation Plan (Ohio SIP). Also, we have found that your Company failed to comply with the National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources (Foundry NESHAP). The opacity emissions and failure to comply with the Foundry NESHAP constitute violations of the Clean Air Act (the Act or CAA).

**Explanation of Violations**

1. The permits and permit conditions relevant to this NOV/FOV are as follows:

- a. On April 20, 2009, the Ohio Environmental Protection Agency (OEPA) issued PTIO P0104680 to your facility for two EAFs, P904 and P905, and associated emission control devices.
  - i. Condition C.1.b)(1)c. requires each EAF be hooded and vented to a baghouse; and each EAF and emissions control system be operated and maintained in a manner which maximizes the capture and control of furnace emissions.
  - ii. Condition A.10 requires reportable malfunctions, malfunctions that result in emissions that exceed permitted emission levels, be immediately reported to OEPA.

- iii. Condition C.1.g)(1) states, pursuant to OAC rule 3745-31-05(D), all the terms and conditions of PTIO P0104680 are federally enforceable requirements.
  - b. On April 17, 2009, the OEPA issued PTIO P0104679 to your facility for mold-making lines, P911, and associated emission control devices.
    - i. Condition C.1.c)(3) requires the pressure drop across each baghouse serving P911 be maintained within the range of 1 to 8 inches of water, while P911 is in operation.
    - ii. Condition A.1.a) says the permit-to-install facility-wide terms and conditions are federally enforceable.
  - c. 40 C.F.R. § 52.23 allows EPA to take enforcement action under Section 113 of the Act, 42 U.S.C. § 7413, when a person fails to comply with any provisions of this part or any permit limitation or condition contained within a permit issued under a SIP-approved permit program.
2. The Ohio SIP rules relevant to this NOV/FOV are as follows:
- a. Ohio Administrative Code (OAC) 3745-31-05 allows OEPA to issue Permits-to-Install with terms and conditions as necessary to ensure compliance with applicable laws and to ensure adequate protection of environmental quality.
    - i. On March 10, 2003, EPA approved OAC 3745-31-05 as part of the federally enforceable SIP for Ohio. 68 Fed. Reg. 2909.
    - ii. OAC 3745-17-08(B) requires you to take reasonably available control measures to prevent dust from becoming airborne. OAC 3745-17-08(B)(3) requires the installation and use of control equipment to adequately enclose, contain, capture, vent and control the fugitive dust.
    - iii. On June 27, 1994, EPA approved OAC 3745-17-08(B) as part of the federally enforceable SIP for Ohio. 59 Fed. Reg. 27464.
  - b. OAC 3745-15-06(B)(1) requires you to immediately notify Ohio EPA of malfunctions of air pollution control equipment. In addition, OAC 3745-15-06(B)(2) requires you notify Ohio EPA when you correct the condition causing the malfunction of air pollution control equipment.
    - i. On November 11, 1982, EPA approved OAC 3745-15-06(B) as part of the federally enforceable SIP for Ohio. 47 Fed. Reg. 43377.
3. The Foundry NESHAP rules relevant to this NOV/FOV are as follows:
- a. 40 C.F.R. §63.10890(b) requires you to submit an initial notification of applicability to the EPA, according to 40 C.F.R. §63.9(b)(2) by May 1, 2008.

- b. 40 C.F.R. §63.10880(f) and 40 C.F.R. §63.10890(g) requires you to submit a written notification to the EPA that identifies Babcock & Wilcox as a small foundry or a large foundry by January 2, 2009. If the metal-melt production for calendar year 2008 is 20,000 tons or less, your area source is a small foundry. If your metal-melt production for calendar year 2008 is greater than 20,000 tons, your area source is a large foundry.
4. Based on an inspection and records review we conducted at Babcock & Wilcox on May 24-25, 2011, and a review of documents submitted to EPA and/or the Ohio Environmental Protection Agency, we have identified the following violations:
- a. On May 25, 2011, we observed:
    - i. a consistent stream of visible emissions emanating from the ductwork leading to the baghouse-fan and immediately prior to the P905 baghouse; and
    - ii. a consistent stream of visible emissions emanating from the P905 baghouse stack.

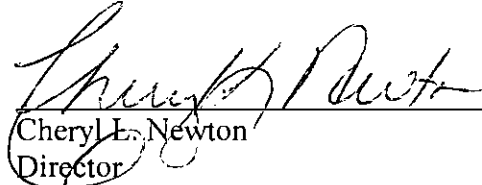
Since May 25, 2011, you have failed to comply with Condition C.1.b)(1)c. of PTIO P0104680 and OAC 3745-17-08(B)(3).

- b. From June 16, 2010 – June 18, 2010, the recorded baghouse pressure drop did not comply with PTIO P0104679 Condition C.1.c)(3), which requires the pressure drop across each baghouse serving P911 be maintained within the range of 1 to 8 inches of water, while the P911 is in operation.
- c. Since May 25, 2011, you have failed to report a malfunction of the P905 emissions capture and control system, as required by PTIO P0104680 Condition A.10 and OAC 3745-15-06(B)(1).
- d. Since May 25, 2011, you have failed to notify Ohio EPA of correcting the condition which caused the malfunction of the P905 emissions capture and control system in violation of OAC 3745-15-06(B)(2).
- e. From May 1, 2008 – January 14, 2009, you failed to submit an initial notification of applicability to the Foundry NESHAP pursuant to 40 C.F.R. §63.10890(b). In a letter dated January 14, 2009, you submitted a notification of compliance status, which alerted us to your applicability to the Foundry NESHAP.
- f. From January 2, 2009, to present, you have failed to submit written notification to EPA that identifies Babcock & Wilcox as a small foundry or a large foundry as required by 40 C.F.R. §63.10880(f) and 40 C.F.R. §63.10890(g).

### Environmental Impact of Violations

5. Violation of the opacity standards increases public exposure to unhealthy particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.

8/30/11  
Date

  
Cheryl L. Newton  
Director  
Air and Radiation Division

## CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice and Finding of Violation, No. EPA-5-11-OH-14, by Certified Mail, Return Receipt Requested, to:

Babcock & Wilcox Co.  
James Flanagan, Manager, Foundry Operations  
91 Stirling Avenue  
P.O. Box 271  
Barberton, Ohio 44203-0271

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first-class mail to:

Ohio EPA, NEDO  
Ed Fasko, Manager Air Pollution Group  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Akron Regional Air Quality Management District  
Bob Hasenyager, Interim Administrator  
146 South High Street  
Room 904  
Akron, Ohio 44308

On the 31 day of August 2011.



Tracy Jamison  
Office Automation Assistant  
Planning and Administrative Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7670 4670